UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,731	05/19/2004	Joost W. D. Pronk van Hoogeveen	03226.414001; SUN040642	7336

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EXAMINER
WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
06/25/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claims 1-20 are pending and have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Barritz et al. (US 6,889,376 B1) in view of **VMware** VirtualCenter User's Manual.

<u>Claim 1</u>

Barritz discloses a method for installing an application, comprising:

creating a zone *(column 5, lines 9-11, the current computer)*;

installing the application in the zone to obtain a remote zone *(column 5, lines 9-11, software and data on the current computer)*;

packaging the remote zone to obtain an application zone package *(column 5, lines 13-15, packing)*; and

deploying the application zone package in a target global zone *(column 5, lines 13-15, moving to the second computer)*.

Barritz did not explicitly state a non-global zone in a global zone such that the non-global zone operates in a partition of the OS on which the global zone executes. Further, **Barritz** did not indicate the global and non-global zone nature of the target zone and second OS. **VMware** demonstrated that it was known at the time of invention to develop and configure non-global zones (VM) within global zones (host) and migrate non-global zones to another zone (target zone) (chapter 8, starting on page 139; page 204, figure; and at least page 15, host bullet, "virtualization platform software, such as ESX server" and page 16, VirtualCenter agent bullet, demonstrate the global zone OS software, which is partitioned into VM non-global zones). **VMware** demonstrated the additional non-global and global zone target relationship and the partition of a second OS (chapter 8, starting on page 139; page 204, figure; and at least page 15, host bullet, "virtualization platform software, such as ESX server" and page 16, VirtualCenter agent bullet; the additional hosts with operating system software being targeted for migration or copy). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the migration system of one remote zone to a target as in **Barritz** with targets of a non-global zone within a global zone as found in **VMware**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide migration of systems in virtual environments for the list known benefits (**VMware**: page 12, last paragraph).

Claim 2

Barritz and **VMware** disclose the method of claim 1, wherein installing the application in

the zone comprises:

determining at least one application configuration parameter for the application

(Barritz: column 1, lines 65-67); and

configuring the remote zone using the at least one application configuration

parameter *(Barritz: column 1, lines 65-67)*.

Claim 3

Barritz and **VMware** disclose the method of claim 2, wherein the at least one

configuration parameter comprises a network port *(Barritz: column 2, line 1-5)*.

Claim 4

Barritz and **VMware** disclose the method of claim 2, wherein the at least one

configuration parameter comprises a memory parameter *(Barritz: column 2, line 1-5)*.

Claim 5

Barritz and **VMware** disclose the method of claim 2, wherein the at least one

configuration parameter comprises a user account *(Barritz: column 2, line 1-5)*.

Claim 6

Barritz and **VMware** disclose the method of claim 1, wherein packaging the remote

zone comprises:

    copying the remote zone to obtain a copy of the remote zone **(Barritz**_: column_

11, liens 7-11, and 20); and

    converting the copy of the remote zone into the application zone package

(Barritz_: column 11, lines 7-11, and 20)_.

Claim 7

Barritz and **VMware** disclose the method of claim 6, wherein the application zone

package is a self-extracting file **(Barritz**_: column 8, line 64)_.

Claim 8

Barritz and **VMware** disclose the method of claim 6, wherein the application zone

package comprises a configuration script **(Barritz**_: column 12, lines 23-30)_.

Claims 14, 16 and 18

The limitations of claims 14, 16 and 18 correspond to the limitations of claims 1 and 7

and as such are rejected in a corresponding manner.

Claim 9

Barritz discloses the method of claim 1, wherein deploying the application zone

package comprises:

accessing the target global zone *(as for claim 1)*;

configuring a target zone *(as for claim 1)*;

installing the target zone *(as for claim 1)*;

unpacking the application zone package to obtain the remote zone *(as for claim*

1); and

copying a copy of the remote zone into a file space occupied by the target zone

(as for claim 1).

Barritz did not explicitly state a non-global zone in a global zone such that the non-

global zone operates in a partition of the OS on which the global zone executes.

Further, **Barritz** did not indicate the global and non-global zone nature of the target

zone and second OS. **VMware** demonstrated that it was known at the time of invention

to develop and configure non-global zones (VM) within global zones (host) and migrate

non-global zones to another zone (target zone) (chapter 8, starting on page 139; page

204, figure; and at least page 15, host bullet, "virtualization platform software, such as

ESX server" and page 16, VirtualCenter agent bullet, demonstrate the global zone OS

software, which is partitioned into VM non-global zones). **VMware** demonstrated the

additional non-global and global zone target relationship and the partition of a second

OS (chapter 8, starting on page 139; page 204, figure; and at least page 15, host bullet,

"virtualization platform software, such as ESX server" and page 16, VirtualCenter agent

bullet; the additional hosts with operating system software being targeted for migration

or copy). It would have been obvious to one of ordinary skill in the art at the time of

invention to implement the migration system of one remote zone to a target as in

Barritz with targets of a non-global zone within a global zone as found in **VMware**'s

teaching. This implementation would have been obvious because one of ordinary skill

in the art would be motivated to provide migration of systems in virtual environments for

the list known benefits (**VMware**: page 12, last paragraph).

Claims 10-13, 15 and 17

The limitations of claims 10-13, 15 and 17 correspond to the limitations of claims 1-9,

14, 16 and 18 and are therefore rejected in a corresponding manner.

Claim 19

Barritz and **VMware** disclose the method of claim 1, wherein the installing the

application and packaging the remote non-global zone is performed by a vendor, and

wherein the application zone package is deployed at a location of a first consumer

(*VMware: page 12, first paragraph, "centrally manages an enterprise's virtual*

machines", "[i]t simplifies IT so companies leverage their storage, network, and

computing resources to control costs and respond faster to changing business

demands", the vendor being the central organization administration; page 204, figure,

the consumer being the various hosts).

Claim 20

Barritz and **VMware** disclose the method of claim 19, further comprising:

deploying the application zone package at a location of a second consumer

(page 204, figure, the consumer being the various hosts).

Response to Arguments

Applicant's arguments filed 13 March 2008 have been fully considered but they

are not persuasive. Applicant argues **VMware** does not disclose a partition of an

operating system (other arguments are negated by the claim amendments and the

correspondingly adjusted rejections).

VMware does disclose a partition of an operating system in the broadest

reasonable sense as required by the claim language. The cited reference utilizes hosts

with software running on the hardware, this software operating the hosts and hardware

for the virtual machines which are operating under and on only a portion of the

previously mentioned software and hardware (at least page 15, host bullet,

"virtualization platform software, such as ESX server" and page 16, VirtualCenter agent

bullet, demonstrate the global zone OS software, which is partitioned into VM non-

global zones). This software is the operating system and it and its resources are

partitioned among the various virtual machines. Therefore, the rejection is maintained

as indicated.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained form either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see http://pair-direct.uspto.gov. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/
William H. Wood
Primary Examiner, Art Unit 2193
June 23, 2008